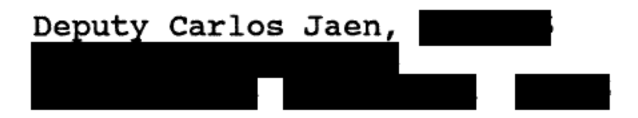


County of Los Angeles
Office of the Sheriff
Hall of Justice
Los Angeles, California 90012



SHERMAN BLOCK, SHERIFF

May 8, 1992



Deputy Carlos Jaen, [redacted]
[redacted]

Dear Deputy Jaen:

On November 25, 1991, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number 90-1042. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond, and did review the material on November 27, 1991. However, after review and consideration of the response submitted to support your position, your Division Chief determined that the recommended discipline is appropriate.

You are hereby notified that your Division Chief has suspended you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of thirty (30) days, effective May 9, 1992 through June 7, 1992.

This action is based on the fact that you have violated the following sections of this Department's Manual of Policy and Procedures: 3-01/020.80, Conformance with Departmental Manual; 3-01/030.30, Use of Firearms and 5-09/210.20, Use of Firearms During Pursuit.

An investigation conducted by Field Operations Region II, coupled with your own statements, has established that on September 9, 1990, you joined with other Carson Station units attempting to contain a suspect vehicle after it had been pursued. During the containment, the Field Supervisor, Sergeant Jerry Kaono, was attempting to extract the suspects from the vehicle, when two other deputies began firing at the suspect vehicle. Without apparent justification, you also fired your 9mm Beretta service weapon at the stalled suspect vehicle without due regard for the safety of other personnel at the scene.

This clearly appeared to be "contagious fire" since an interview with your partner, Deputy Michael Staley, revealed that he did not understand why you fired. Other deputies also at the scene indicated the "justification to fire was not there."

The investigation revealed that you admitted firing three rounds, counted the rounds remaining, then reloaded your duty weapon, in total violation of Department policy. You then reported that you only fired two rounds.

By your actions, you have brought discredit and embarrassment to yourself and the Department.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05 and 18.01 of the Civil Service Rules.

If you desire within fifteen (15) business days from the date of service of this notice of suspension, you may request a hearing on these charges before the Los Angeles County Civil Service Commission, 222 North Grand Avenue, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

SHERMAN BLOCK, SHERIFF

Bert J. Cueva, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

BJC:DS:pa

cc: Civil Service Advocacy
Mark Squiers, Acting Chief, Region II
Internal Affairs Bureau
Personnel Services
Payroll Unit
Lakewood Station/Unit Personnel File

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE September 25, 1991

OFFICE CORRESPONDENCE FILE NO. 90-1042

FROM: JOSEPH P. JAMES, CAPTAIN
COMMANDER, CARSON STATION

TO: DUANE T. PREIMSBERGER, CHIEF
FIELD OPERATIONS REGION II

SUBJECT: RECOMMENDATION FOR DISCIPLINE

Subjects: CHAVEZ, Ismael, Deputy, #[redacted]
Carson Station
Field Operations Region II

MORALES, Guillermo J., Deputy, #[redacted]
Carson Station
Field Operations Region II

JAEN, Carlos A., Deputy, #[redacted]
Lakewood Station (Formerly Assigned to Carson)
Field Operations Region III

Upon consideration of the facts developed in investigation by Lieutenant Paul M. Harman, Carson Station, I recommend that Subject Chavez be suspended without pay for ten (10) days. Subject Chavez has violated the following Sections of the Manual of Policy and Procedures:

3-01/020.80	Conformance with Department Manual
(5-09/200.25	Use of Code Three)
(5-09/210.20	Use of Firearms During Pursuit)
3-01/030.30	Use of Firearms

Further, it is recommended that:

- The allegation of General Behavior against Subject Chavez is <u>Unsubstantiated</u>.

- The allegation of Making False Statements During a Departmental Investigation against Subject Chavez is <u>Unfounded</u>.

I recommend that Subject Morales be suspended without pay for ten (10) days. Subject Morales has violated the following Sections of the Manual of Policy and Procedures:

3-01/020.80	Conformance with Department Manual
(5-09/200.25	Use of Code Three)

(5-09/210.15 Vehicle Operation and Tactics)
(5-09/210.20 Use of Firearms During Pursuit)
3-01/030.30 Use of Firearms

Further, it is recommended that:

- The allegation of and General Behavior against Subject Morales is Unsubstantiated.

- The allegation of Making False Statements During a Departmental Investigation against Subject Morales is Unfounded.

I recommend that Subject Jaen be suspended without pay for six (6) days. Subject Jaen has violated the following Sections of the Manual of Policy and Procedures:

3-01/020.80 Conformance with Department Manual
(5-09/210.20 Use of Firearms During Pursuit)
(5-09/430.00 Shootings - Deputy Involved)
3-01/030.30 Use of Firearms

Investigation revealed that on September 9, 1990, Subjects Chavez and Morales, who were in their patrol vehicle en route back to the station from a containment, entered a pursuit of a stolen vehicle. Subjects Chavez and Morales did not broadcast that they were entering the pursuit and, in fact, joined the pursuit after the field sergeant had already indicated the units which were authorized to continue. The Subjects stopped on the Harbor Freeway and waited for the pursuit to pass, and then joined the pursuit. Subject Morales, the driver of the patrol vehicle, passed the field sergeant during the pursuit and took a position as the third vehicle in the pursuit.

At the end of the pursuit, Subjects Chavez and Morales drove into a containment for the suspects, placing their vehicle in the suspect vehicle's path. This positioning of their vehicle inappropriately endangered them for what transpired. The Subjects exited their patrol vehicle and stood in front of the fleeing suspect vehicle without proper cover or concealment. They unnecessarily exposed themselves to the potential for serious injury by failing to employ appropriate officer survival tactics. The Subjects fired their 9mm Beretta service weapons at the suspect vehicle without due regard for the safety of other personnel at the scene, narrowly missing the field sergeant who was stopped behind and off to the side of the suspect vehicle. Subject Morales had 15 months experience in a patrol car and Subject Chavez had 17 months in a patrol car at the time of this incident. Their lack of experience and desire to impress their peers may have contributed to their recklessness and the resulting conduct and tactics which thrust them into a situation that prompted them to use firearms.

Subject Jaen, who had joined the containment for the suspect vehicle and who had a clear view of the suspects' flight through the parking lot of the location, also fired his 9mm Beretta service weapon at the stalled vehicle and its occupants. This clearly appeared to be contagious fire since a subsequent interview with his partner revealed his partner didn't understand why he fired. Other deputies also at the scene indicated the "justification to fire was not there". Following the Code Four, and after stating he had shot three rounds, Subject Jaen counted his rounds and reloaded his duty weapon, in total violation of Department policy. Subject Jaen then stated he had only shot two rounds.

The driver of the vehicle being pursued pled guilty to receiving stolen property and "two" counts of 245 which stemmed from the pursuit.

JPJ:PMH:cc

SYNOPSIS OF COMPLAINT

Subject 1:

Deputy Ismael Chavez, #[redacted]
Carson Station
Field Operations Region II

Subject 2:

Deputy Guillermo Morales, #[redacted]
Carson Station
Field Operations Region II

Subject 3:

Deputy Carlos Jaen, #[redacted]
Lakewood Station
Field Operations Region III

Character of Case:

Pursuit Policy, Firearms Policy, Safety Policy, General Behavior, Making False Statements During a Departmental Internal Investigation

Assigned Investigator:

Paul M. Harman, Lieutenant
Carson Station
Field Operations Region II

Date and Location:

September 9, 1990 - 13900 North Hamilton Avenue, unincorporated Torrance strip.

Complaint:

On September 9, 1990, at 0347 hours, Deputies Morales and Chavez violated Department pursuit policy and failed to exercise proper tactics in the termination of a pursuit and apprehension of grand-theft-auto suspects. Deputies Morales, Chavez and Jaen also violated Department firearms policy at the end of that pursuit.

SUMMARY OF FACTS

The Findings

The investigation revealed that on September 9, 1990, at approximately 0347 hours, Subject Morales and his partner, Subject Chavez, while en route to the Carson Station following a [redacted] which had taken them beyond their normal tour of duty, without authorization, entered a vehicle pursuit of grand-theft-auto suspects. There were three vehicles involved and authorized to be in the pursuit. Subjects Morales, the driver, and Subject Chavez, the bookman, both acknowledged that they heard the radio broadcast; however, the Subjects went Code 5 on the transition road from the 405 Freeway north to the Harbor Freeway south and waited for the pursuit. As the pursuit passed by and after they were almost struck by the suspect vehicle, the Subjects pursued the suspect vehicle, "Code 3", passing in front of the field supervisor, Sergeant Kaono, and taking third position in the continuing pursuit. Sergeant Kaono stated, "They had inserted themselves way back on Torrance Boulevard when we had to go around the tow truck. They accelerated and inserted themselves into the pursuit. Things changed immediately when they inserted themselves into the pursuit."

At the termination of the pursuit, the dead end of Hamilton Avenue, the suspect vehicle was able to temporarily elude the pursuing sheriff's vehicles by driving under a chain that stretched across the northernmost parking lot access driveway. The pursuing radio cars bottlenecked, however, Sergeant Kaono saw another open access driveway into the parking lot and followed the suspect vehicle with his red lights and siren on behind the building at 19300 Hamilton. He advised over the L-Tac car-to-car frequency that he and Deputy Cocke were following the suspect vehicle behind the building. Several deputies acknowledged hearing this transmission, as did Subjects Morales and Chavez.

While the suspects fled behind the building, driving south through the parking lot, the remaining radio cars began to position themselves at the southern end of the lower parking lot to cut off the suspects' escape. Late arrivals on the scene, not involved in the pursuit, also positioned their units south of the parking lot which abuts the southern end of the 19300 street address. Unit 167, Deputy Seelhorst, a one-man unit, stopped short of the southernmost parking lot entrance/exit. He was followed by Unit 162, Subject Jaen, and his partner, Deputy Staley, who parked at an angle slightly forward of Deputy Seelhorst's vehicle. Unit 160T parked in a parking lot across the street on the west side of Hamilton, facing the 19300 parking lot.

The suspect vehicle rounded the corner from behind the building and drove west toward the berm. As the suspect vehicle hit the curb in front of the berm and bumped over it and began its ascent up the berm, Subject Morales and his partner, Subject Chavez, had just driven their radio car in position at the east curb of Hamilton Avenue. They were in front of the berm approximately 20 feet north of the southern exit to the parking lot and just ahead of and to the inside of Deputy Nelson and his vehicle. The Subjects stated they could not see into the parking lot from their position since the berm is higher than the radio car. They observed the suspect vehicle's headlights coming over the berm as they were sitting in their vehicle. Subject Morales did not back out of the way although his vehicle was directly in the path of the oncoming vehicle. He instead got out of his patrol vehicle, drew his weapon, and approached the vehicle on foot without any cover or concealment. He was standing directly in the path of the vehicle. His partner, Subject Chavez, also exited the patrol vehicle and moved forward of his front door and trained his weapon on the suspect vehicle. Subject Morales' vehicle still had its red lights on and the siren was wailing when they were out of the vehicle.

(**Investigator's Note:** Subject Morales stated that he could not see over the berm from his vantage point because the berm is higher than the car. This statement is not true. This investigator and others who have journeyed to the scene can see clearly into the parking lot over the berm while seated in a radio car parked at the curb. It is this investigator's opinion that Subject Morales' decision to exit his vehicle and approach the suspect vehicle on foot, placing himself directly in harm's way, was foolhardy and tactically unsound. He afforded himself no cover and made himself a victim of a potential 245 by the suspects' vehicle.)

Sergeant Kaono and most deputies interviewed stated that the wail of the siren severely impacted their ability to communicate at the scene, making both voice and P.A. use impossible. Sergeant Kaono stated, "Our biggest problem was Morales' and Chavez's siren was going and they made no attempt to turn it off. They were yelled and screamed at 'turn the siren off!' As a supervisor, I lost control because I had no audible means of directing any kind of extraction."

According to most witness accounts, the suspect vehicle had plowed into and high-centered on the top of the berm at this juncture; however, the suspect driver was gunning the engine

of the front-wheel-drive vehicle. Subject Morales, by his own account, fired his 9mm Beretta service weapon at the driver of the vehicle. His partner, Subject Chavez, by his account, fearing that his partner was going to be run over by the suspect vehicle, fired one shot at the driver of the suspect vehicle from his Beretta a split second afterwards. Subject Jaen, who was approximately 35 to 40 feet away, also fired three shots from his 9mm Beretta at the suspect vehicle. Sergeant Kaono indicated Subject Jaen stated to Subjects Morales and Chavez after the shooting, "How many did you shoot? I shot three." According to Subject Jaen, he was trying to hit the driver and stop the vehicle from advancing on Subject Morales. His partner, Deputy Staley, and Deputy Seelhorst, who was in the vehicle adjacent, both stated they could see no justification to fire at the suspect vehicle.

(**Investigator's Note:** It is this investigator's opinion that Subject Jaen's was reflexive or contagious fire. It is also a miracle that no one in the suspect vehicle was hit by any of the rounds fired. Subject Jaen also clearly violated departmental shooting policy when he began unloading his weapon and counting rounds and reloading his weapon. The field sergeant was unable to positively determine how many rounds Subject Jaen had actually fired. Subject Jaen had already reloaded his Beretta's magazine and then claimed to have only fired "two rounds".)

No other deputies fired at the suspect vehicle. Interviews conducted with other deputies who were present and who observed the suspect vehicle impact with the berm indicate that the vehicle had high-centered. They believe the vehicle may have been teetering and several recall the engine racing; however, presented with the same circumstances, they reached a different conclusion. The following are direct quotes from interviews: 1) Deputy Nelson - "I don't know if I would have shot, but I didn't have their mindset." 2) Deputy Nunez - "In my opinion they shouldn't have been there." 3) Deputy Seelhorst - "I couldn't see any justification from where I was." 4) Deputy Staley - "According to what I was looking at, it wasn't a shooting situation."

Without question Subject Morales, by placing himself in front of the vehicle, made himself a victim of a potential assault with a deadly weapon. According to Sergeant Kaono, Subject Morales and Chavez were "standing upright and were both in a shooting position that we would use at the range". Subject Chavez did have some cover behind his radio car and may genuinely have fired his weapon due to fear that his partner

was about to be run over. Although both he and his partner acknowledged that they knew radio cars were following behind the suspect vehicle, they did not give it a thought when they fired their weapons. Sergeant Kaono, who was parked behind and off to the side, was directly in their line of fire. Sergeant Kaono stated that when the first rounds went off one whistled past his head and he hit the ground and rolled out of the line of fire screaming, "Hold your fire!" Deputy Cocke was just rounding the corner of the building in his radio car when the rounds were fired and he accelerated to clear the area because he believed he was in the line of fire. Sergeant Kaono stated, "There was no evidence that there were any weapons at any time during the pursuit. In my judgment, there was no time during the pursuit when there was any kind of felony assault by use of firearms or the car they (the suspects) were driving."

(**Investigator's Note:** Juvenile Subject [redacted] driver of the suspect vehicle, did plead guilty to two counts of felonious assault which occurred during the pursuit. One count occurred against Deputy Nelson and one against Subjects Chavez and Morales while they were on the Harbor Freeway. Although Sergeant Kaono was the third vehicle in the pursuit, some distance behind the lead vehicle, he was transitioning from the westbound Artesia Freeway to the southbound Harbor Freeway and could not see the vehicle assault which occurred ahead of him. He first saw Subjects Morales' and Chavez's vehicle as it was accelerating and joining the pursuit. He had just caught up with the pursuit and they roared ahead of him.)

Sergeant Kaono reported that Subjects Morales' and Chavez's conduct following the shooting was unprofessional. He stated they "high-fived" one another, which they both deny. Both Subjects claim they shook hands twice at different levels; however, one deputy at the scene acknowledges that there were "high-fives" and although he did not see who it was that "high-fived", he later stated, "The only reason I know it was Chavez and Morales is I was told that after the fact." It would appear that there was some jubilation shown following the shooting. Sergeant Kaono's description of the Subjects' behavior clearly indicates that they were "high-fiving" one another. He also stated, "Then there was even a dispute between Morales and Chavez. Chavez arguing, no, that was his shot because he aimed dead at the driver."

(**Investigator's Note:** Although there appears to be no question that the Subjects high-fived

one another following the shooting, it would be very difficult to determine whether the emotion that was being displayed was relief that they came through unscathed or that it was a congratulation to one another of the shooting itself.)

There was no reason for Subjects Morales and Chavez, who were already working over their shift hours, to join the pursuit. According to both Subjects, they were en route back to the station when the pursuit started. Subject Chavez stated, "Basically, when the pursuit went down, we were driving back from a [redacted] in the north end. We were on Avalon just north of the 405 Freeway when the 10-33 went out." Subject Morales stated, "We were on Avalon by the Carson Mall when we first heard the pursuit going southbound on the 110 Freeway." Taped L-Tac communications indicate they asked if they were needed at Lakewood Station for one of the containments at 0325 hours. The desk replied, "Negative, 10-19," which Subject Morales acknowledged at 0326 hours. The Subjects should have been in the station at the time of the pursuit, which began 21 minutes later. Early Morning Watch Sergeant Costa remembers Subject Morales sitting in the report writing room. He recalls him running out the back door of the station when the pursuit began and heard him leave the parking lot at a high rate of speed. Sergeant Costa did not see Subject Chavez leave the station.

(**Investigator's Note:** There was a great deal of confusion on whether Deputies Morales and Chavez had rolled from the station or from the field as they had stated. Sergeant Costa had sworn that he had been checking for them to come in and had seen Morales in the station going into the secretariat and sitting in the report writing room. He said he saw Morales run out the back door when the 10-33 came out. Sergeant Garcia stated that although his interview was based on the best of his recollection, he recalls that when he talked to Subject Chavez and asked him why they were there so late and got involved in the pursuit, he (Chavez) replied, "We were finishing up some paper and had rolled from the station." Sergeant Garcia said that he would rather err on the side of doubt and conceded he may have misinterpreted what was said over time. The item that cleared up the discrepancy was Deputy Nunez's log, which indicated it was he who was

in the station, and not Morales, finishing up a trainee evaluation. Deputy Nunez said he rolled from the station and it was probably him who Sergeant Costa saw go out the back door. To add to this information, both Deputies Seelhorst and Nunez rolled from the station and were the last to arrive at the termination of the pursuit. Morales and Chavez were involved in the pursuit and obviously would not have had time to become so involved had they, too, rolled from the station.)

On a final note, a petition was filed and all of the subjects were remanded to juvenile court. The driver, Subject [redacted] appeared in Long Beach Juvenile Court on October 24, 1990. He pled guilty to two counts of 245 against deputies with the stolen vehicle, one count of felony evading, and one count of receiving stolen property. The other three subjects failed to appear in court and bench warrants were issued for their arrest.